

United States District Court

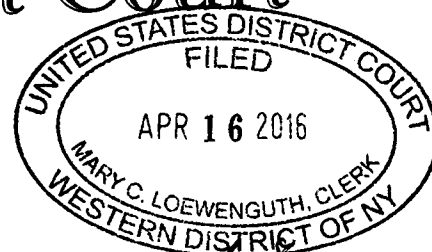
for the
Western District of New York

United States of America

v.

Kevin Waczkowski

Defendant



Case No. 16-M-68
(SEALED)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about December 12, 2015 through April 15, 2016, in the Western District of New York, the defendant KEVIN WACZKOWSKI violated Title 18, United States Code Sections 2252A(a)(2)(A) and 2252A(a)(5)(B), offenses described as follows:

The defendant did knowingly receive child pornography that had been mailed, or using any means or facility of interstate or foreign commerce by any means, including computer in violation of Title 18, United States Code, Section 2252A(a)(2)(A); and did knowingly possess material that contained images of child pornography that had been produced using materials that had been mailed, shipped or transported in or affecting interstate or foreign commerce by any means including by computer, all in violation of Title 18, United States Code, Section 2252A(a)(5)(B).

This Criminal Complaint is based on these facts:

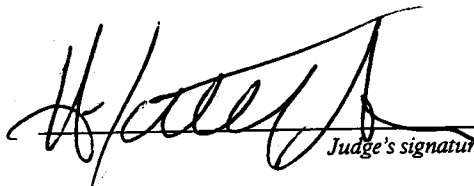
☒ Continued on the attached sheet.


Complainant's signature

GEOFFREY DENNEHY
SPECIAL AGENT
FEDERAL BUREAU OF INVESTIGATION
Printed name and title

Sworn to before me and signed in my presence.

Date: April 16, 2016


Judge's signature

HONORABLE H. KENNETH SCHROEDER, JR.
UNITED STATES MAGISTRATE JUDGE
Printed name and title

City and State: Buffalo, New York

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Geoffrey C. Dennehy, being duly sworn, depose and say:

1. I am a Special Agent of the Federal Bureau of Investigation and entered on duty in February 2004. I am currently assigned to the Buffalo Field Office and work on cases associated with the Violent Crimes Against Children program, which targets individuals involved in the online sexual exploitation of children. As part of these duties, I have become involved in the investigation of suspected violations of Title 18, United States Code, Sections 2251, 2252, 2252A, 2422, and 2423. I have also participated in various FBI mandated and volunteer training for the investigation and enforcement of federal child pornography laws in which computers are used as the means for receiving, transmitting, and storing child pornography.

2. I make this affidavit in support of a criminal complaint charging **KEVIN D WACZKOWSKI ("WACZKOWSKI")** with knowingly possessing and receipt of child pornography in violation of Title 18, United States Code, Sections 2252A(a)(5)(B) and 2252A(a)(2)(A) respectively.

3. The statements contained in this affidavit are based on my involvement in this investigation, information provided to me by other law enforcement officers, other personnel specially trained in the seizure and analysis of computers and electronic media, and on my

training and experience. Because this affidavit is being submitted for the limited purpose of seeking a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that **WACZKOWSKI** did knowingly violate Title 18, United States Code, Sections 2252A(a)(5)(B) and 2252A(a)(2)(A) respectively.

4. Title 18, United States Code, Section 2252A pertains to federal child pornography laws in which computers are used as the means for producing, receiving, transmitting, and storing child pornography, in relation to the sexual exploitation of children. Child pornography is defined in Title 18, United States Code, Section 2256.

5. BitTorrent is one of the most common Peer to Peer (P2P) protocols for transferring large files. BitTorrent is a peer-to-peer protocol, which means that the computers in a BitTorrent "swarm" (a group of computers downloading and uploading the same torrent) transfer data between each other without the need for a central server. A user can make a file available on their computer as a file called a torrent. The computer that hosts the original file, in its entirety, is called a seed and it splits the file up into lots of pieces. Anyone who wants the file uses a program called a BitTorrent client to request it from a seed. The client is sent one of the pieces and gets all the remaining pieces, over a period of time, from other people's computers through P2P communication. At any given moment, each computer is downloading some parts of the file from some of these peers and uploading other parts of the file to other peers.

II. DETAILS OF THE INVESTIGATION

6. On December 12, 2015, an online undercover employee, logged onto an undercover computer, connected to the Internet, located at the FBI office in Buffalo, New York and launched a publicly available P2P computer file sharing program. The online undercover employee selected a user, identified only as IP address 74.77.225.23, and noted that the user had a torrent file, referencing 109 files, available for download. This torrent file referenced at least one file which was previously identified as being a file of investigative interest to child pornography investigations.

7. Between 10:48am on December 12, 2015 and 1:56pm on December 12, 2015, the online undercover employee successfully completed the download of 2 files that the computer at IP address 74.77.225.23 was making available. The computer at IP Address 74.77.225.23 was the sole candidate for each download, and as such, each file was downloaded directly from this IP Address. These files were viewed and meet the definition of child pornography as defined by Title 18, United States Code, Section, 2256. An example of the files of child pornography included:

- a. **S00 Sergey p2 s5 14Yo Boy Jerk And Cums-Pedo Gay Ptch Boy.mov** – a video file depicting a young male approximately 14 years of age removing his pants followed by his underpants. The boy stands nude before the camera which moves from his face down to his genitals. The boy lies naked on a bed and

masturbates. The boy holds and shows his penis with semen on the surface. An apparent adult hand uses a finger to touch the semen on the boy's penis.

- b. **Thai 2 14yo Boys Fucking In Bed & Jo.avi** – a video file depicting two young males approximately 12 to 14 years of age. Boy 1 is naked and gets on all fours on a bed while Boy 2, naked from the waist down, applies lubricant to his penis. Boy 1 lies face down on the bed facing away from the camera and looks at magazines. Boy 2 begins to straddle Boy 1's buttocks. Boy 2 removes his shirt and is fully naked. Both boys lie on the bed next to each other. The camera focuses on both boy's genitals. Boy 1 examines his genitals and then Boy 2 grabs Boy 1's penis. The boys begin wrestling on the bed and Boy 1 touches Boy 2's genitals. Boy 1 lies back and Boy 2 holds Boy 1's penis and moves his mouth towards it. Boy 1 gets up from the bed and the camera zooms on Boy 2's genitals.

8. On January 17, 2016, an online undercover employee, acting in an undercover capacity, logged onto an undercover computer, connected to the Internet, located at the FBI office in Buffalo, New York and launched a publicly available P2P computer file sharing program. Your affiant selected a user, identified only as IP address 74.77.225.23, and noted that the user had a torrent file, referencing 535 files, available for download. This torrent file referenced at least one file which was previously identified as being a file of investigative interest to child pornography investigations.

9. Between 6:11am and 11:51pm on January 17, 2016, your affiant successfully completed the download of 220 files that the computer at IP address 74.77.225.23 was making available. The computer at IP Address 74.77.225.23 was the sole candidate for each download, and as such, each file was downloaded directly from this IP Address. These files

were viewed and meet the definition of child pornography as defined by Title 18, United States Code, Section, 2256. An example of the files of child pornography included:

- a. **Toddler want know about where the cock go inside.avi** - a video file depicting a naked adult male sitting with his legs spread open. A naked prepubescent female approximately 6-7 years old is sitting on the male's lap with her legs spread open facing away from the male. The camera only shows the genitals and a portion of the legs of the male and female as well as some of the female's belly. The hands of an individual not visible on camera are holding the child's right leg. Voices of a man, child, and woman can be heard talking in a non-English language throughout the video. The adult male is holding the child's left leg. The child covers her vulva with her left hand. The male uses his right hand to try to move her hand away and then uses his left hand to fully move the child's hand exposing her genitals. The male uses the middle finger of his right hand to touch the child's vulva. The female places her left hand over the male's hand and the male attempts to insert his middle finger into the female's vagina. The child abruptly pulls his hand up and away from her vulva. The male again attempts to insert his middle finger into the female's vagina and she pulls on his hand while attempting to close her legs without success. The male uses his left leg to keep the female's left leg spread open and uses his left hand to remove the female's hand from his left hand. The child visibly squirms to get away. The male inserts his middle finger into the female's vagina and she shrieks. The child uses both hands to push the male's right hand away. The person off camera lets go of the child's right leg and she stands up and begins to walk away. The male smacks the child's buttocks.
- b. **Toddler being fucked by man 78678(2)(2)(2).mpg** - a video file depicting a naked adult male lying on a bed with the camera placed looking towards his head from his feet. A prepubescent child, gender unknown, is straddling the adult's waist. The adult male's penis is inserted into the anus of the child and the adult is using thrusting motions to penetrate deeper into the child. The adult male places his hands on the child's buttocks.

10. Following each undercover session previously referenced, the online undercover employee used an Internet tool to determine that Time Warner holds the registration on IP address 74.77.225.23.

11. On December 23, 2015, the online undercover employee submitted an administrative subpoena to Time Warner requesting subscriber information for the user of IP address 74.77.225.23 from July 20, 2015 to December 12, 2015. On April 4, 2016, the online undercover employee submitted another administrative subpoena to Time Warner requesting subscriber information for the user of IP Address 74.77.225.23 on January 17, 2016 and January 19, 2016.

12. The results from the above referenced administrative subpoenas indicated that the subscriber during the specified dates and times was Gerald Wackowski of **540 Winspear Rd, Elma, NY 14059**. The account provides Internet access to that address, and was established on May 14, 2006.

13. On March 28, 2016, a search of the utilities for 540 Winspear Rd, Elma, NY 14059 was done, and found a National Fuel account in the name of Gerald Wackowski, telephone 716-681-5320, since October, 2000.

14. On April 15, 2016, the FBI executed a search warrant at 540 Winspear Rd, Elma, New York. Kevin D. Wackowski, the son of homeowner Gerald Wackowski, was interviewed at his place of employment, Iroquois School District. Wackowski admitted to downloading child pornography using a file sharing service to his laptop computer and then transferred the files to his desktop computer. Wackowski stored the images and videos in a

directory called "new folder" and views the folder approximately once a week. Waczkowski admitted that he prefers viewing pornographic videos and images of males between the ages of 14 to 21 years of age. Waczkowski was subsequently polygraphed by the FBI and further stated that he fantasizes and receives sexual gratification from "checking out" underage boys at his place of employment.

15. On April 15, 2016, Waczkowski's desktop computer was examined by Buffalo FBI. The desktop computer contained a Western Digital 1.0 TB hard drive, bearing Serial number WCAV55782122 that was found to contain several images of child pornography. This aforementioned hard drive was manufactured in Thailand. The following is a description of three of the images found on the hard drive:

Image 1

Title: 4 2 Cute Gay Preteen Boys 10yo 13yo Snuggle Together Naked Nude On Couch 13 yo Pants Half Down Pedo Young Child Sex Kdv Rbv Pjk.jpg

Description: This is an image of two young boys (8-10) sitting next to each other on a couch. One boy is completely naked with the focus of the image being his penis. The other boy is clothed but with his jeans pulled down to expose his penis.

Image 2

Title: Phantom Production 2002 Preteen Pedo Little Boys 5yo to 12yo Kids Childs Nude Kdv Pjk Rbv Shx Fenerbahce Rizmastar Gay Sex Vip GAY CLUB Exclusive 0000031.jpg

Description: This is an image of two pre-pubescent boys on a bed with no clothes on. Boy #1 has boy #2's penis in his mouth, while boy #2 is holding the penis of boy #1 in his hand.

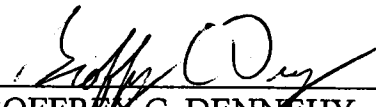
Image 3

Title: Pictures from ranchi torpedo dloaded in 2009 – pedo kdv kidzilla pthc toddlers 0yo 1y0 2y0 3y0 4y0 5y0 6y0 9yo tara babyj (254).jpg

Description: This is an image of an adult male's erect penis penetrating the anus of a pre-pubescent boy (approximately 4-6 yr old boy), while the boy's penis is also the focus of the image.


16. In summary, **WACZKOWSKI** knowingly downloaded and received child pornography using the P2P network BitTorrent and possessed these images on a Western Digital hard drive installed in his desktop computer. The Western Digital hard drive was manufactured in Thailand.

17. Based upon the foregoing, I respectfully submit that I have probable cause to believe that **WACZKOWSKI** has violated Title 18, United States Code, Sections 2252A(a)(5)(B) and 2252A(a)(2)(A) respectively.



GEOFFREY C. DENNEHY
Special Agent
Federal Bureau of Investigation

Sworn to before me this
16th day of April 2016



HON. H. KENNETH SCHROEDER, JR.
United States Magistrate Judge